

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT ROANOKE, VA
FILED
October 07, 2024
LAURA A. AUSTIN, CLERK
BY: s/A. Beeson
DEPUTY CLERK

KENARD M. COLLINS,

Plaintiff,

v.

T. LOWE,

Defendant.

Case No. 7:22-cv-00608

MEMORANDUM OPINION

By: Hon. Thomas T. Cullen
United States District Judge

Plaintiff Kenard M. Collins, proceeding *pro se*, filed a civil rights complaint under 42 U.S.C. § 1983. On June 10, 2024, Defendant moved for summary judgment on Plaintiff's claim against him under Federal Rule of Civil Procedure 56. (*See* Def.'s Mot. for Summ. J. [ECF No. 27].) That same day, the Court ordered Plaintiff to respond to Defendants' motion within 21 days and advised Plaintiff that his failure to respond could result in dismissal of this action. (Notice, June 10, 2024 [ECF No. 15].)

Plaintiff did not respond to Defendant's motion within the 21-day window. Instead, he filed a motion to appoint counsel and motion for temporary restraining order. (*See* ECF Nos. 30, 21.) The Court denied Plaintiff's motions and again ordered him to respond to the motion for summary judgment. (*See* Order, July 24, 2024 [ECF No. 34] (giving Plaintiff 21 days to respond to Defendant's motion for summary judgment).) The Court reminded Plaintiff that, "if he fails to respond in an appropriate fashion and within the time limit imposed by the court, his case will be dismissed." (Mem. Op., July 24, 2024, at 1–2 [ECF No. 33].) But, again, Plaintiff failed to respond within the time allotted by the Court and again filed an unrelated

motion rather than responding as directed. (*See* Pl.'s Mot., Aug. 23, 2024 [ECF No. 35] (requesting appointment of counsel and a hearing with the previously dismissed Defendants).)

More than 21 days have elapsed from the date of the Court's order, and Plaintiff has failed to respond. Because Plaintiff has twice failed to comply with the Court's order to respond to Defendant's motion for summary judgment, the Court will dismiss this action without prejudice. *See* Fed. R. Civ. P. 41(b)

The Clerk is directed to forward a copy of this Memorandum Opinion and the accompanying Order to the parties.

ENTERED this 7th of October, 2024.

/s/ Thomas T. Cullen
HON. THOMAS T. CULLEN
UNITED STATES DISTRICT JUDGE